



Health Policy Briefing

April 12, 2021

Biden Administration Releases FY 22 Budget Priorities

The White House released its [fiscal year \(FY\) 2022 discretionary funding request](#) on Friday. The \$1.52 trillion preliminary budget proposal includes topline funding figures and sheds light on the administration’s prioritization of combating inequality, protecting public health, and addressing climate change for the upcoming fiscal year. The budget includes a 15.9% boost to nondefense discretionary spending, and a \$1.7% increase for defense programs. Agencies within the Department of Health and Human Services would see a 23.5% budget increase.

While presidential budgets outline administration priorities, the top-line spending figures may guide the work of Democratic appropriators in Congress. The budget proposal involves only discretionary spending, and not entitlement programs like Medicare and Medicaid. In addition, it does not include details on economic assumptions, deficit or revenue projections, or spending contained in the President’s proposed infrastructure package. The FY 2022 budget is the first in a decade that will not be constrained by spending caps put in place by the ***Budget Control Act of 2011***.

It is rumored that the full budget, which will include programmatic funding proposals, will be released next month. Congressional appropriators have already begun to schedule budget hearings, and could begin marking up spending bills as early as next month. Appropriations legislation will require the support of at least 10 GOP members in the Senate to pass, and the spending bills or a continuing resolution will need to be enacted prior to Oct. 1 to avoid a government shutdown. Republicans have criticized the budget proposal for the relatively small increase to defense spending.

Please see the addendum to this newsletter for Hart Health Strategies Inc.’s more detailed summary of the President’s budget proposal.

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House to Consider Medicare Sequester, Workplace Violence this Week

The House of Representatives will consider the Senate amendment to H.R. 1868 under suspension of the rules on Tuesday. This legislation would extend for nine months the temporary moratorium on the 2% Medicare sequester in light of the ongoing public health emergency. The bill, as amended, would delay the automatic cuts from April 1 to Dec. 31. The House also plans to vote on a bill to address workplace violence in the health care and social service industries (H.R. 1195) this week.

Democrats Consider the Use of Reconciliation for Infrastructure Package

Senate Majority Leader Chuck Schumer (D-N.Y.) has confirmed that Democrats can use the budget reconciliation process for a second time during fiscal year 2021 to pass the President's infrastructure and jobs proposal. The announcement follows a ruling from the Senate parliamentarian on the issue. According to Schumer's office, the parliamentarian advised that Democrats could use the same process employed to pass the ***American Rescue Plan Act*** earlier this year, although "some parameters still need to be worked out." Majority Leader Schumer had asked the parliamentarian whether the fiscal 2021 budget resolution used to pass the pandemic aid bill could be reused for a second reconciliation package in the same fiscal year. It remains unclear, however, which proposed infrastructure and jobs provisions could pass the Senate's Byrd rule test, or whether Democrats even have enough support within their own caucus to use reconciliation again this fiscal year. The process would require the support of all 50 Democratic senators; moderates like Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.), however, have already raised concerns about using the process in a way that could set a new precedent, with Manchin also expressing opposition to the President's proposed corporate tax rate hike. Without this special ruling, Democrats would still have been able to perform a separate reconciliation for fiscal year 2022.

The administration has already released the first of two long-term infrastructure proposals - the ***American Jobs Plan***, totaling \$2.7 trillion. The White House has said that a forthcoming package, the ***American Families Plan***, could be released as soon as this month. It is expected to total around \$1 trillion and include child care and health measures as well as tax hikes for individuals to help fund the administration's proposed spending increases. House Speaker Nancy Pelosi (D-Calif.) has said that she expects that the proposals will be packaged into two separate bills by Congress.

The Congressional Progressive Caucus (CPC) has released their top five [priorities](#) for the ***American Jobs Plan*** after surveying its 95 members. Health care-related provisions supported by the caucus include mandating that Medicare negotiate drug prices, restricting drug price increases that rise faster than the rate of inflation, and capping drug prices at the average price charged in other Organization for Economic Cooperation and Development (OECD) member countries. The caucus also supports requiring that the government use the savings generated by these provisions to pay for lowering the Medicare eligibility age and expanding Medicare program benefits to cover dental, vision, and hearing care. The CPC's priorities also include investing \$450 billion in Medicaid home and community-based services (HCBS).

The President will meet with both Democratic and Republican members of Congress today to discuss his infrastructure plan and gauge support for the proposal.

Neal Outlines Agenda for W&M Committee

In a [letter](#) to his colleagues in the House of Representatives last week, Ways and Means Committee Chair Richard Neal (D-Mass.) outlined his agenda for the panel for the coming months. In addition to drafting legislation in keeping with the President's proposed American Jobs Plan, Ways and Means will consider changes to the nation's caring infrastructure and hidden barriers to workforce participation, starting with the ***Economic Mobility Act*** and the ***Child Care for Economic Recovery Act***. Chairman Neal also pledges to give every worker the right to paid family and medical leave.

Lawmakers Ask HHS to Expand Opioid PHE Declaration

Reps. Ann Kuster (D-N.H.), David Trone (D-Md.), Nanette Barragan (D-Calif.), and Katie Porter (D-Calif.) have sent a [letter](#) to the U.S. Department of Health and Human Services (HHS) urging Secretary Xavier Becerra to extend and broaden the declaration of the opioid crisis as a public health emergency (PHE). The lawmakers cite the significant increase in overdose deaths during the pandemic as a justification for extending the declaration and broadening it to include not just opioids but the entire drug epidemic. The existing emergency declaration is set to expire on Wednesday.

Democrats Push for New SEP for the Unemployed

Democratic committee leaders have sent a [letter](#) to U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra encouraging the department to open an Affordable Care Act (ACA) marketplace special enrollment period (SEP) for individuals who remain unemployed beyond the expiration of the *American Rescue Plan Act's* COBRA subsidies. The letter was signed by House Education and Labor Chair Bobby Scott (Va.), Senate Health, Education, Labor, and Pensions (HELP) Committee Chair Patty Murray (Wash.), House Ways and Means Committee Chair Richard Neal (Mass.), Senate Finance Committee Chair Ron Wyden (Ore.), and House Energy and Commerce Chair Frank Pallone (N.J.). The lawmakers express concerns that certain people currently using the expanded benefits provided through the *American Rescue Plan Act* could be locked out of coverage until 2022 following the conclusion of the law's premium support program for job-based coverage.

Upton, Dingell Request More Vaccines for MI

Reps. Fred Upton (R-Mich.) and Debbie Dingell (D-Mich.) are [asking](#) the White House to increase the amount of COVID-19 vaccine being sent to their state. Michigan is currently experiencing a surge in coronavirus cases. While current federal vaccine allocation is population-based, Upton and Dingell argue that taking COVID-19 case count into consideration for hard-hit areas like Michigan is consistent with public health guidance.

Sen. Tillis Undergoes Surgery to Treat Prostate Cancer

Sen. Thom Tillis (R-N.C.) announced that he is recovering from surgery to treat prostate cancer. Sen. Tillis underwent surgery last week. He stated that he plans to return to the Senate soon and is expected to make a full recovery. Sen. Tillis has previously emphasized the importance of routine screenings, as his cancer was detected during an annual physical when he was not experiencing symptoms.

CBO Releases Reports on 2020 Enacted Legislation, Public Option, and Drug R&D

The Congressional Budget Office (CBO) has released a [report](#) summarizing the agency's estimates of the effects on mandatory spending or revenues of authorizing legislation that was enacted during the second session of the 116th Congress. CBO estimates that laws enacted in 2020 will add \$2.8 trillion to the cumulative deficit between 2020 and 2030 as a result of a \$634 billion reduction in revenues and a \$2.2 trillion increase in outlays. The ***Coronavirus Aid, Relief, and Economic Security (CARES) Act*** and the ***Consolidated Appropriations Act, 2021*** account for \$2.3 trillion (or roughly 80%) of the estimated increase in deficits over the 2020–2030 period.

In its ***Research and Development in the Pharmaceutical Industry*** report, CBO [details](#) the amount of money spent by the pharmaceutical industry on research and development. The industry spent \$83 billion on R&D in 2019, approximately 10 times the amount spent per year in the 1980s after taking inflation into account. The average number of new drugs released per year from 2010 to 2019 reached 38, a 60 percent increase compared to the previous decade. CBO found that R&D spending is dependent on anticipated revenues from a new drug, expected development costs, and how the policy environment impacts the supply and demand for prescription drugs. CBO also concludes that the price of new drugs are not influenced by R&D costs, but that new drugs are instead priced in an attempt to maximize future revenues net manufacturing and distribution costs.

CBO also released a new [report](#) that explores key design considerations and implications of the creation of a public health insurance option, including potential impacts on provider pay rates and participation. The report also outlines decisions policymakers would need to make related to prescription drugs, including negotiation, contracting with a pharmacy benefit manager, and price setting. While CBO acknowledges that the impact of a public option would depend on its design, the agency notes that Affordable Care Act (ACA) marketplace and employer health plans pay approximately twice as much as Medicare for hospital care, and 25% more to physicians. The report cautions that a public option could be disruptive to the market and reduce coverage options, and would likely reduce the revenues of both providers and prescription drug manufacturers.

CDC Declares Racism a Public Health Threat

Centers for Disease Control and Prevention (CDC) Director Rochelle Walensky issued a statement last week declaring racism a serious public health threat and detailing the steps CDC is taking to address the impact of racism on public health. Amongst other actions, the agency is currently studying the impact of social determinants on health outcomes, making new and expanded investments in racial and ethnic minority communities and other disproportionately affected communities around the country, and expanding internal agency efforts to foster greater diversity. The CDC also launched a new web [portal](#) “Racism and Health” as an educational resource and to spur public and scientific discourse around racism and health.

HHS Personnel Update

The Senate Finance Committee will hold a hearing on Thursday to consider the nominations of Andrea Joan Palm to be Deputy Secretary of Health and Human Services and Chiquita Brooks-LaSure to be Administrator of the Centers for Medicare and Medicaid Services. Brooks-LaSure is a former Obama administration health official who helped implement the Affordable Care Act (ACA) while serving as deputy director for policy at the Center for Consumer Information and Insurance Oversight (CCIIO). She chaired President Joe Biden's health transition team and currently works as a managing director of the consulting firm Manatt Health. Earlier in her career, she was a staffer for the House Ways and Means Committee where she helped to draft the ACA while working with U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra, who served on the panel during his time in Congress. Andrea Palm most recently led the Wisconsin Department of Health Services. She previously served as a senior counselor at HHS under former President Barack Obama.

Amy Abernethy resigned as the number two official at the Food and Drug Administration (FDA) and will leave the agency by the end of the month. She joined the agency two years ago with the goal of furthering how the FDA uses information technology and real world evidence and data.

Stakeholders Urge CMS to Reconsider Prior Authorization Rule

A group of 40 organizations including the American College of Surgeons, American Medical Association, Federation of American Hospitals, and Medical Device Manufacturers Association have sent a [letter](#) to the Centers for Medicare and Medicaid Services (CMS) urging the administration to reconsider a regulation scheduled to go into effect on July 1 expanding the use of prior authorization for certain medical procedures. The letter expresses serious concerns that beneficiaries will experience significant barriers to access to medically necessary procedures as a direct result of the policy. The organizations request that the rule be delayed and that CMS withhold action on any further expansion of prior authorization requirements until it has established specific criteria, to guide its decision-making related to the use of prior authorization.

Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)
- [Testing](#)
- [Vaccines](#)

Upcoming Congressional Hearings and Markups

Senate Appropriations Subcommittee on the Department of Defense hearing “Department of Defense Innovation and Research;” 10:00 a.m., 192 Dirksen Bldg.; April 13

Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies hearing “A Review of the President’s Fiscal Year 2022 Funding Request for the National Science Foundation and Securing U.S. Competitiveness;” 2:00 p.m., 106 Dirksen Bldg.; April 13

Senate Homeland Security and Governmental Affairs Committee business meeting to consider the nominations of Deanne Bennett Criswell, of New York, to be Administrator of the Federal Emergency Management Agency, Department of Homeland Security, and Jason Scott Miller, of Maryland, to be Deputy Director for Management, Office of Management and Budget; 9:45 a.m., 342 Dirksen Bldg.; April 14

Senate Homeland Security and Governmental Affairs Committee hearing “Preparedness for COVID-19: The Initial Pandemic Response and Lessons Learned;” 10:00 a.m.; Virtual; April 14

House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies hearing “National Science Foundation’s Fiscal Year 2022 Budget Request;” 10:00 a.m.; April 14

House Energy and Commerce Subcommittee on Health legislative hearing “An Epidemic Within a Pandemic: Understanding Substance Use and Misuse in America;” 10:30 a.m.; April 14

House Veterans’ Affairs Technology Modernization Subcommittee hearing “Strategic Review: Evaluating Concerns About the Ongoing Implementation of the Electronic Health Record Modernization Program;” 2:00 p.m.; April 14

Joint Economic Committee hearing “Vaccinations and Economic Recovery;” 2:30 p.m.; April 14

Senate Finance Committee hearing to Consider the nominations of Andrea Joan Palm to be Deputy Secretary of Health and Human Services and Chiquita Brooks-LaSure to be Administrator of the Centers for Medicare and Medicaid Services; 9:30 a.m.; April 15

House Oversight and Government Reform Select Subcommittee on the Coronavirus Crisis hearing “Reaching the Light at the End of the Tunnel: A Science-Driven Approach to Swiftly and Safely Ending the Pandemic;” 10:00 a.m.; April 15

House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies hearing “FY 2022 Budget Request for the Department of Health and Human Services;” 10:00 a.m.; April 15

House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies hearing “FY 2022 Budget Hearing: Department of Veterans Affairs;” 10:00 a.m.; April 15

House Veterans’ Affairs Committee hearing on: H.R. 234, Korean American VALOR Act; H.R. 344, Women Veterans TRUST Act; H.R. 958, Protecting Moms Who Served Act; H.R. 1448, PAWS for Veterans Therapy Act; H.R. 1510, Veterans’ Camera Reporting Act; Discussion Draft: DOULA for VA Act (see H.R. 9016, 116th); Discussion Draft: Sgt. Ketchum Rural Veterans Mental Health Act of 2021; Discussion Draft: legislation to clarify the role of doctors of podiatric medicine in the Department of Veterans Affairs; and Discussion Draft: Providing Benefits Information in Spanish and Tagalog for Veterans and Families Act; 10:00 a.m., Virtual; April 15

Senate Commerce, Science, and Transportation Subcommittee on Communications, Media, and Broadband hearing “Shot of Truth: Communicating Trusted Vaccine Information;” 10:00 a.m.; 253 Russell Bldg.; April 15

House Education and Labor Subcommittee on Health, Employment, Labor, and Pensions hearing “Meeting the Moment: Improving Access to Behavioral and Mental Health Care;” 10:15 a.m., Virtual; April 15

House Oversight and Reform Select Subcommittee on the Coronavirus Crisis hearing “Reaching the Light at the End of the Tunnel: A Science-Driven Approach to Swiftly and Safely Ending the Pandemic;” 10:30 a.m.; April 15

House Energy and Commerce Subcommittee on the Environment and Climate Change hearing “The CLEAN Future Act and Environmental Justice: Protecting Frontline Communities;” 10:30 a.m.; April 15

Senate Budget Committee hearing “The Cost of Inaction on Climate Change;” 11:00 a.m., 216 Hart Bldg.; April 15

Senate Foreign Relations Committee business meeting to consider the nomination of The Honorable Samantha Power, of Massachusetts, to be Administrator of the United States Agency for International Development (USAID); 11:00 a.m., 106 Dirksen Bldg.; April 15

House Select Committee on the Climate Crisis hearing “Making the Case for Climate Action: The Growing Risks and Costs of Inaction;” 12:00 p.m., Virtual; April 15

Recently Introduced Health Legislation

H.R.2355 — To facilitate responsible, informed dispensing of controlled substances and other prescribed medications, and for other purposes; Sponsor: Rep. Davis, Rodney [R-IL-13]; Committees: House - Energy and Commerce

H.R.2356 — To amend title XVIII of the Social Security Act to make technical amendments to the separate payment under the Medicare program for disposable negative pressure wound therapy devices; Sponsor: Rep. Butterfield, G. K. [D-NC-1]; Committees: House - Energy and Commerce; Ways and Means

H.R.2364 — To amend title III of the Public Health Service Act to direct the Secretary, acting through the Director of the Centers for Disease Control and Prevention, to provide for a public education campaign for the promotion outreach and education campaign to raise public awareness of synthetic opioids; Sponsor: Rep. Kim, Andy [D-NJ-3]; Committees: House - Energy and Commerce

H.R.2366 — To establish programs to address addiction and overdoses caused by illicit fentanyl and other opioids, and for other purposes; Sponsor: Rep. Kuster, Ann M. [D-NH-2]; Committees: House - Energy and Commerce; Judiciary

H.R.2367 — To direct the Secretary of Health and Human Services to enter an agreement with the National Academies of Sciences, Engineering, and Medicine to conduct a study on the quality and effectiveness of covered recovery housing in the United States, and for other purposes; Sponsor: Rep. Levin, Mike [D-CA-49]; Committees: House - Energy and Commerce

H.R.2376 — To amend title V of the Public Health Service Act to provide for increased oversight of recovery housing, and for other purposes; Sponsor: Rep. Trone, David J. [D-MD-6]; Committees: House - Energy and Commerce

H.Res.296 — Supporting the goals and ideals of National Youth HIV & AIDS Awareness Day; Sponsor: Rep. Lee, Barbara [D-CA-13]; Committees: House - Energy and Commerce

H.Res.298 — Supporting the goals and ideals of National Public Health Week; Sponsor: Rep. Roybal-Allard, Lucille [D-CA-40]; Committees: House - Energy and Commerce

H.R.2379 — To amend the 21st Century Cures Act to reauthorize and expand a grant program for State response to the opioid use disorders crisis, and for other purposes; Sponsor: Rep. Trone, David J. [D-MD-6]; Committees: House - Energy and Commerce

H.R.2384 — To prohibit agencies from issuing vaccine passports, and for other purposes; Sponsor: Rep. Biggs, Andy [R-AZ-5]; Committees: House - Oversight and Reform; House Administration

H.R.2405 — To amend the Controlled Substances Act to improve the process for conducting scientific research on schedule I controlled substances, and for other purposes; Sponsor: Rep. Griffith, H. Morgan [R-VA-9]; Committees: House - Energy and Commerce; Judiciary

H.R.2407 — To provide for a 3-month delay for the recoupment of certain payments made under the accelerated or advance payment programs under the Medicare program; Sponsor: Rep. Issa, Darrell E. [R-CA-50]; Committees: House - Ways and Means; Energy and Commerce

H.R.2410 — To amend title XVIII of the Social Security Act to require the inclusion of information on prior authorization requirements and other utilization management techniques in the Medicare & You annual notice; Sponsor: Rep. Kelly, Mike [R-PA-16]; Committees: House - Ways and Means; Energy and Commerce

H.R.2414 — To prohibit recipients of Federal COVID relief and Federal agencies from engaging in certain conduct that discriminates against individuals who have not been vaccinated against COVID-19, and for other purposes; Sponsor: Rep. LaMalfa, Doug [R-CA-1]; Committees: House - Oversight and Reform; Education and Labor; Small Business

H.R.2418 — To provide student loan forgiveness to health care workers who are on the front line in response to COVID-19; Sponsor: Rep. Maloney, Carolyn B. [D-NY-12]; Committees: House - Education and Labor; Financial Services; Ways and Means

H.R.2430 — To amend the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act to extend for one year the temporary order for fentanyl-related substances; Sponsor: Rep. McMorris Rodgers, Cathy [R-WA-5]; Committees: House - Energy and Commerce; Judiciary

H.R.2432 — To amend title 38, United States Code, to provide for the eligibility of certain individuals exposed to burn pits for hospital care, medical services, and nursing home care furnished by the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Veterans' Affairs

H.R.2435 — To amend the Federal Food, Drug, and Cosmetic Act to require the label of a drug that is intended for human use and contains an ingredient that is derived directly or indirectly from a gluten-containing grain to identify each such ingredient, and for other purposes; Sponsor: Rep. Ryan, Tim [D-OH-13]; Committees: House - Energy and Commerce